



PLANNING COMMISSION

AGENDA

Regular Meeting

7:00 P.M. on Tuesday, March 27, 2018

Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, California

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

2. ADMINISTRATIVE

- 2.a. Review of agenda items.
- 2.b. Declaration of Conflict of Interest.
- 2.c. Vice Chair Bassam Altwal to report at the City Council meeting of April 3, 2018 (alternate Commissioner William Gall).

3. PUBLIC COMMENT

4. MINUTES

- 4.a. Approval of the minutes for the February 27, 2018 Planning Commission meeting.

5. PUBLIC HEARINGS

- 5.a. **HOP-04-18, Home Occupation Permit, Jiageng Zhang, 5121 Keller Ridge Drive (APN: 118-441-011).** A request for approval of a Home Occupation Permit to allow after-school home-based instruction of Mandarin, calligraphy, painting, paper cutting art, and other Chinese-themed activities to elementary school and middle school aged children.

Staff Recommendation: Staff recommends the Planning Commission receive and consider the staff report and all information provided and submitted to date, receive and consider all public testimony and, if determined to be appropriate, conditionally approve Home Occupation Permit HOP-04-18.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

- 8.a. Staff.
- 8.b. Commission.

9. ADJOURNMENT

- 9.a. The next regularly-scheduled meeting of the Planning Commission will be held on **Tuesday, April 10, 2018.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7300. An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

Minutes
Clayton Planning Commission Meeting
Tuesday, February 27, 2018

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Chair Carl Wolfe called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton, California.

Present: Chair Carl Wolfe
Vice Chair Bassam Altwal
Commissioner A. J. Chippero
Commissioner Peter Cloven
Commissioner William Gall

Absent: None

Staff: Community Development Director Mindy Gentry
Assistant Planner Milan Sikela, Jr.

2. ADMINISTRATIVE

2.a. Selection of Transportation Partnership and Cooperation (TRANSPAC) representative.

Vice Chair Altwal moved and Commissioner Chippero seconded a motion to select Commissioner Cloven as the TRANSPAC representative. The motion passed 4-0-1 (abstain – Cloven).

2.b. Review of agenda items.

2.c. Declaration of Conflict of Interest.

2.d. Commissioner Peter Cloven to report at the City Council meeting of March 6, 2018.

3. PUBLIC COMMENT

Jennifer Gladding-Butticci, 343 Alexander Place, had concerns regarding the City removal of two eucalyptus trees located adjacent to the Cardinet Trail.

Chair Wolfe and Vice Chair Altwal requested clarification of the Tree Removal Permit process.

Director Gentry described the Tree Removal Permit process and indicated that a request to remove a tree would be brought before the Commission if it was a heritage oak or part of a development proposal but that the majority of Tree Removal Permits are administratively approved.

Assistant Planner Sikela recalled the City's Maintenance Department had applied for a Tree Removal Permit but would verify the trees approved for removal were the same eucalyptus trees.

Debra Gonsalves, 215 Roundhill Place, expressed concern regarding a tree leaning on a fence located on Mount Diablo Elementary School's property, adjacent to the City's property, and wanted to bring the tree to the City's attention so that, if the tree collapsed, it would not impact City property.

Director Gentry indicated that she would provide Ms. Gonsalves with her business card and staff could research if the tree was on City property and also indicated that, if the tree is located on Mount Diablo Elementary School property, it would be the School District's responsibility to apply for a Tree Removal Permit with the City.

4. MINUTES

4.a. Approval of the minutes for the October 24, 2017 Planning Commission meeting.

Commissioner Cloven moved and Vice Chair Altwal seconded a motion to approve the minutes, as submitted. The motion passed 5-0.

5. PUBLIC HEARINGS

5.a. **SPR-01-18, Site Plan Review Permit, Brennan Rose, 121 Oak Court (APN: 119-361-004).** A request for approval of a Site Plan Review Permit to allow the construction of a single-story addition measuring approximately 1,080 square feet in area (approximately 164 interior square feet and approximately 915 square feet unenclosed covered porches and entryway) and increasing the roof height to 21 feet on an existing single-story single-family residence.

The staff report was presented by Assistant Planner Sikela and he concluded by indicating that the project representative, Daniel Torres, would also provide a PowerPoint presentation following the staff presentation.

Vice Chair Altwal had the following questions:

- Why was the game room in the basement not included in the floor area calculation? Assistant Planner Sikela responded that, per Section 17.78.030.D.2 of the Clayton Municipal Code, basements are excluded from floor area calculations where the finished floor level directly above is less than four feet above the finished grade on all sides. Since the floor level above the subject basement is less than four feet above the finished grade on all sides, the subject basement was excluded from the floor area calculation for the project.
- Is the basement existing or proposed? Assistant Planner Sikela responded that his understanding was that the basement is existing and that only the existing staircase leading to the basement would be replaced with a new staircase, but that he would defer that question to the applicant for further clarification.
- What is the maximum single-family residential height allowed in Clayton? Assistant Planner Sikela indicated that Section 17.16.070 of the Clayton Municipal Code allows a maximum single-family residential height at 35 feet. As part of the project, the roof height of the subject single-family residence is proposed to be increased to a maximum of 20 feet 10 inches.

Chair Wolfe asked staff what the requirements were for basements as related to earthquake safety. Assistant Planner Sikela responded that, once the project plans are submitted to the Contra Costa County Conservation and Development Department for building permit issuance, County staff will review the plans for compliance with earthquake safety standards as well as other applicable requirements.

The public hearing was opened.

The project representative, Daniel Torres, provided a PowerPoint presentation and highlighted the following key points related to the project:

- The basement is existing and only the staircase leading to the basement will be replaced.
- The project will have a low impact upon views and privacy since the applicant is proposing to maintain the single-story roof profile and there are no neighboring residences directly east or west of the subject property.
- Given the location of the subject property as it relates to the street, it should be noted that the lot is tucked back into the cul-de-sac, providing further screening from off-site areas, thereby reducing impacts to visibility.
- The modified roof will provide continuity for the project as well as allowing light to reach interior spaces through use of dormers.

Debra Gonsalves, 215 Roundhill Place, express support for the project and indicated that the project would benefit the neighborhood.

Vice Chair Altwal requested that the basement be included on the project plans. Director Gentry and Assistant Planner Sikela both indicated that the basement would be included on the construction plans submitted for building permit issuance.

Matt Gardner, 204 Fleming Drive, indicated he that he lives south (behind the rear property line) of and adjacent to the subject property and asked if the roof of the existing game room would be modified as part of the project.

Project architect, Tim Alatorre, provided the following comments:

- The roof of the game room will not be changed nor will any part of the game room be altered as part of the project.
- A floor plan of the basement as well as the modification of the staircase leading to the basement will be included on the construction plans submitted for building permit issuance.
- In terms of the timeline for construction, we will attempt to complete the project as quickly as possible.

The public hearing was closed.

Commissioner Cloven had the following question and comments:

- Did staff receive any comments regarding the project? Assistant Planner Sikela indicated that two comments were received. One comment was provided to staff in person at City Hall and the interested party has spoken at the meeting tonight. The other comment was provided via a telephone call to Assistant Planner Sikela and involved clarification questions about the project which were addressed during the course of the telephone conversation.

- He conducted a site visit and it appears that, given the location of the property and the single-story design of the residence, there will be very little visual impacts to the neighborhood.

Vice Chair Altwal indicated that, given the absence of complaints regarding the project and the facts that the project complies with applicable requirements, I have no problem conditionally approving the project.

Vice Chair Altwal moved and Commissioner Chippero seconded a motion to approve Site Plan Review Permit SPR-01-18, with the findings and conditions of approval recommended by staff. The motion passed 5-0.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff

None.

8.b. Commission

Chair Wolfe and Commissioner Gall both indicated that they would not be able to attend the March 27, 2018 Planning Commission meeting.

9. ADJOURNMENT

9.a. The meeting was adjourned at 7:47 p.m. to the regularly-scheduled meeting of the Planning Commission on March 13, 2018.

Submitted by
Mindy Gentry
Community Development Director


Approved by
Carl Wolfe
Chair

Community Development\Planning Commission\Minutes\2018\0227

**PLANNING COMMISSION
STAFF REPORT**

Meeting Date: March 27, 2018

Item Number: 5.a

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Public Hearing to consider a Home Occupation Permit request to allow after-school home-based instruction of Mandarin, calligraphy, painting, paper cutting art, and other Chinese-themed activities to be conducted from a single-family residence (HOP-04-18)

Applicant: Jiageng Zhang

REQUEST

Jiageng Zhang, the applicant, requests approval of a Home Occupation Permit request to allow after-school home-based instruction to be conducted from a single-family residence.

PROJECT INFORMATION

Location: 5121 Keller Ridge Drive
APN: 118-441-011

General Plan Designation: Medium Density – Single Family Residential (3.1 to 5.0 units per acre).

Zoning: Planned Development (PD).

Environmental Review: Categorically exempt per Section 15301 – Existing Facilities of the California Environmental Quality Act (CEQA) Guidelines.

Public Notice: On March 16, 2018, a public hearing notice was posted at the notice boards and mailed to property owners within 300 feet of the project site.

Authority: Section 17.71.030.A of the Clayton Municipal Code (CMC) authorizes the Planning Commission to approve a home occupation permit in accordance with the standards in CMC Section 17.71.030.B.

DISCUSSION

The applicant has requested approval of a home occupation permit to allow after-school home-based instruction to be conducted from a single-family residence located at 5121 Keller Ridge Drive (see **Attachment A** for the vicinity map). According to the written supplement submitted by the applicant (see **Attachment B**), the home-based business would involve in-house instruction of Mandarin, calligraphy, painting, paper cutting art, and other Chinese-themed activities to elementary school and middle school aged children. The business is proposed to be called Big Tree Confucius Institute. The applicant is proposing to have a maximum of six students per day—complying with Section 17.71.030.B.2 of the CMC which allows for a maximum of six clients/students per day—and thirty students per week. Lessons are proposed in one-hour, two-hour, or three-hour programs. The days and hours of operation are proposed to be Monday through Friday from 3:30 p.m. to 6:30 p.m.

Section 17.71.030 of the Clayton Municipal Code (CMC) requires Planning Commission review and approval for any home occupation generating client traffic. Section 17.71.030.B.2 of the CMC states, in part, that “the home occupation shall not generate client/student traffic to the residence in excess of six (6) clients/students per day, unless the number is reduced by the Planning Commission.”

The written supplement provided by the applicant indicates the driveway of the subject residence will be used for the parent/guardian to drop off and pick up the students. As a result, no street parking will be necessary for the home-based business. Per Chapter 17.37 of the Clayton Municipal Code, single-family dwellings are required to have four off-street parking spaces (two covered and two uncovered) per unit. The subject single-family residence proposed for the home-based business has two covered parking spaces in the garage and four (two tandem) uncovered parking spaces in the driveway for a total of six on-site parking spaces (see **Attachment C** for front view of subject property). Although this use is not considered to be a small family day care, which allows for the all-day care of up to six children, the operations pertaining to student/client pick up and drop off are comparative under the off-street parking requirements in the CMC, which does not require additional parking spaces for a small family day care. Given the above, sufficient off-street parking is provided for the property owner’s and students’/clients’ vehicles.

Since the number of clients proposed to visit the subject residence will not exceed the maximum allowable visits of six per day and the home occupation business will be conducted Monday through Friday from 3:30 p.m. to 6:30 p.m., with no business operation proposed on Saturday or Sunday, the proposal meets the CMC requirements as related to client/student traffic and days of operation as well as the other applicable home occupation standards of approval.

DAY CARE APPLICABILITY

As part of the analysis of the proposed Home Occupation Permit, the applicability of State day care licensing was considered. Staff contacted the California Department of Social Services Community Care Licensing Division, which determined this proposed use to be “license-exempt”. The scope of the home occupation proposal is considered to be an instruction-based after-school program that does not provide actual child care and, instead, is for instructional purposes only. Therefore, as a result, licensing by the California Department of Social Services Community Care for the home occupation proposal is not required.

RECOMMENDATION

Staff recommends the Planning Commission consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, conditionally approve Home Occupation Permit HOP-04-18 to allow after-school home-based instruction of Mandarin, calligraphy, painting, paper cutting art, and other Chinese-themed activities to elementary school and middle school aged children to be conducted from a single-family residence located at 5121 Keller Ridge Drive.

Proposed Conditions of Approval

1. The Home Occupation shall be conducted in compliance with requirements in Chapter 17.71 of the Clayton Municipal Code.
2. The applicant shall obtain a Clayton Business License prior to commencing operation of the home occupation. Business license application may be obtained from the City’s website www.ci.clayton.ca.us or at Clayton City Hall, 6000 Heritage Trail, Clayton, 925-673-7310.
3. Upon City determination of a violation of or failure to comply with Clayton Municipal Code Chapter 17.71 or these Conditions of Approval, this Home Occupation Permit HOP-04-18 may be revoked or modified in accordance with Clayton Municipal Code Sections 17.64.050 - 17.64.070.
4. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney’s fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

Advisory Notes

Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; and (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

1. This Home Occupation Permit shall be used, exercised, or established within twelve (12) months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be null and void (Clayton Municipal Code Sections 17.64.010-17.64.030).

2. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&Rs) administered by a homeowners' association (HOA), additional requirements and/or approvals may be required by the HOA. Before proceeding with the project, it is advisable to check with the HOA to ensure any applicable requirements are met.



ATTACHMENTS

- A. Vicinity Map
- B. Written supplement with project description
- C. Front view of the subject property
- D. City of Clayton Home Occupation Permit Standards of Approval (Excerpt)

ATTACHMENT A



VICINITY MAP

	<p>Zhang Residence Home Occupation Permit HOP-04-18 5121 Keller Ridge Drive APN: 118-441-011</p>	<p>N</p>  <p>(Not to Scale)</p>
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ATTACHMENT B

Project Proposal

Our after school program is going to be taught in a fun, harmonic environment. Learning Chinese doesn't have to be painful. We will be using books and materials from the "Confucius Institute," where the course materials and curriculum are focused on non native speakers, and our staff has experiences from teaching in Chinese school.

Not only Chinese learning, we can also teach traditional Chinese calligraphy, Chinese painting, paper cutting art, and other Chinese themed activities. There will also be festive celebrations according to each Chinese holidays through out the year. Our goal is bring Chinese culture closer to everyone.

Who we serve: parents who has to work everyday, need someone to look after their children after school, and learn something as a bonus in the process. People who wants their children to learn Chinese, but don't have time or unable to send their child to Chinese school.

RECEIVED

MAR 7 2018

**CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT**

Our hours of operations are Monday through Friday, from 3:30 to 6:30.

We are going to have 6 students per day, 30 per week max. Students can choose to stay with a one, two, or three hour programs.

The instructions will occur in the living room, where there's a table, chairs, as well as a TV.

Our student's age will range from elementary to middle schoolers.

We anticipate a parent or guardian will utilize our 4 car driveway to drop off and pick up their kids to and from the program, so no street parking is needed.

RECEIVED
MAR 7 2018
CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

ATTACHMENT C

Google Maps 5121 Keller Ridge Dr



Image capture: Jul 2015 © 2018 Google

Clayton, California
Google, Inc.

Street View - Jul 2015

ATTACHMENT D

CITY OF CLAYTON HOME OCCUPATION PERMITS STANDARDS OF APPROVAL CLAYTON MUNICIPAL CODE SECTIONS 17.71.020.B.1 – 17.71.020.B.12 (EXCERPT)

1. The home occupation shall be subordinate and incidental to the primary use of the dwelling unit for residential-purposes.
2. The home occupation shall be compatible with and not change the character of adjacent residential areas.
3. The dwelling unit shall be located in an Agricultural, Residential, or Planned Development (Residential) District.
4. The home occupation shall not use more than one room, or twenty-five percent (25%) of the habitable floor area of the principle structure, whichever is greater. Garage areas and living areas within accessory structures and secondary dwelling units shall not be considered as part of the habitable floor area of the principal structure.
5. No persons shall be employed, except the applicant and members of the resident family, in the conduct of the home occupation.
6. There shall be no merchandise or services for sale, except that produced or made on the premises, and which can be shipped directly, electronically, or sold at another location.
7. There shall be no signage or exterior indication of the home occupation.
8. There shall be no outside display or storage of goods or materials.
9. The home occupation shall not create any noise, odor, dust, fumes, vibrations, electrical interference, or other interference with the residential use of adjacent areas.
10. There shall be no use of utilities or community facilities beyond that normal to the residential use of the property.
11. The home occupation shall not decrease the number or size of parking spaces below that needed to meet the minimum off-street parking requirements for the residence.
12. Delivery vehicles shall be limited to those types of vehicles, which typically make deliveries to residential neighborhoods, such as postal service, parcel deliveries, pickup trucks, and light vans. A maximum of four (4) deliveries per day is allowed.